

*Privilege—Ruling Mr. Speaker*

Elections so that I may have an opportunity of clearing what I think is the very great stigma that attaches to my reputation and to my name.

These matters are related in some way to the relationship between the House of Commons and the press and to some extent they have certain basic principles in common. Each deserves to be dealt with on its own merits, however, and I shall endeavour to do so, taking them in reverse order.

First, the point raised by the hon. member for Northumberland-Durham. The CBC documentary on organized crime in Canada which was shown in two parts on Sunday, June 13 and Monday, June 14 made reference during the two segments to some hon. members of this House. On Monday, June 14 following the first segment, the hon. member for Davenport (Mr. Caccia) and the hon. member for Northumberland-Durham raised the matter of privilege and at that time made a brief explanatory statement.

On the following day the hon. member for Saint-Hyacinthe (Mr. Wagner) made a similar intervention, and the day after that the hon. member for Burnaby-Richmond-Delta (Mr. Reynolds) did likewise, both interventions relating to the contents of the second segment scheduled and shown on Monday, June 14. Both the hon. member for Burnaby-Richmond-Delta and the hon. member for Saint-Hyacinthe indicated the matter was being taken up in the courts on their instructions.

Of the four hon. members who raised a grievance in that respect in the House under our privilege procedures, only the hon. member for Northumberland-Durham proposed a motion. The practice resorted to by all four hon. members is not new, and while it does not in my opinion technically constitute a question of privilege, it is a practice that has been resorted to customarily in similar circumstances. This practice permits what is essentially a personal statement of an hon. member of this House under the umbrella of privilege in circumstances where the hon. member feels unduly attacked and gives the hon. member an opportunity to air that matter and to be heard by the House. A similar practice exists in Great Britain and is described in May's 19th Edition at page 343.

Precedents abound on the highly restrictive nature of privilege in our House. One of the most often quoted decisions relates to requiring for privilege an element of obstruction or interference of an hon. member in the exercise of his duty, of obstruction of hon. members, collectively or individually, in the discharge of their functions as members of this House.

Where the press is concerned, we also have the benefit of two earlier decisions in which on one occasion the hon. member for Madawaska-Victoria (Mr. Corbin) and on another occasion the hon. member for Athabasca (Mr. Yewchuk) raised questions of privilege in recent years. On both occasions they presented to the House, as did the hon. member in this particular case, well reasoned presentations. I therefore had the benefit of considerable preparation on both those occasions by hon. members, and in addition, of course, the usual excellent research assistance that was so thoroughly done. I think those precedents are of some assistance to us.

[Mr. Speaker.]

In respect of the hon. member for Madawaska-Victoria on May 20 I had this to say at page 13708 of *Hansard*:

There has really never been an occasion on which an hon. member has been deprived of the opportunity, when there is a grievance of this sort, to air that grievance. Whether or not it constitutes strictly a question of privilege, there has never been a time when the hon. member concerned did not have the opportunity to raise the question, to air his grievance and to make it well known, as the hon. member for Madawaska-Victoria has done today. Other members who might have wished to take part in the discussion could have done so.

However, it will remain my view that a fundamental right is involved here equal, at least, if not greater, than the special privileges which surround the rights of members, who really ought to claim privilege only if their opportunity to operate as members of the House of Commons is actually interfered with. Certainly, the right to comment and express to the public what takes place here is an aspect of the freedom of the press which is one of the fundamental rights of our society and one which ought not to be interfered with, in my view, unless it is in fact in contempt of this institution.

On a subsequent occasion on the point raised by the hon. member for Athabasca which concerned some unsavoury remarks, to say the least, in the press about the performance of members of this House who are physicians and were serving on one of the standing committees of the House at that time, I was able to refer with great gratitude to assistance provided by the excellent study done at that time by a committee of the United Kingdom parliament which put forward the following language on this point. The following excerpt from their proceedings appears in *Hansard* of April 9, 1976 at page 12668:

The proposal made in paragraph 42 is fully consistent with the principle which your committee believe to be right, that the House should be slow and reluctant to use its penal powers to stifle criticism or even abuse, whether of the machinery of the House, of a member or of an identifiable group of members, however strongly the criticism may be expressed and however unjustifiable it may appear. Your committee regard such criticism as the life blood of democracy. In their view the sensible politician expects and even welcomes criticism of this nature. Nonetheless, a point may be reached at which conduct ceases to be merely intemperate criticism and abuse and becomes or is liable to become an improper obstruction of the functions of parliament. For such cases, however rare, the penal powers must be preserved and the House must be prepared to exercise them.

I also quoted the following passage:

In your committee's opinion it would be an indefensible abuse of power if a member could evade such a defence by invoking the penal jurisdiction of the House. The citizen has prima facie a right to make fair comment upon such activity of a member as is a matter of public interest; his right is even stronger to speak and publish the truth of a member's conduct. These rights should not in the normal way be defeated by the use of the penal jurisdiction of the House.

I have said many times that the intent and clear purport of that language is that the protection of an elected person against unwarranted or intemperate publicity, even abuses or defamatory publicity, is precisely that which is enjoyed by every citizen before our courts. No more, no less. It is entirely consistent with that principle, I think, that the hon. member for Saint-Hyacinthe and the hon. member for Burnaby-Richmond-Delta indicated their intention to pursue this matter before the courts.

As elected people we can and do expect to be the targets of attack. When those attacks seem offensive I think it is appropriate that the hon. member is offered the courtesy of the House to extend to his hon. colleagues an explanation of the circumstances. I am sure any hon. member who wishes to so